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09/207,224	12/08/1998	WILLIAM A. FEININGER	28049/34693	6499

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/207,224

Applicant(s)

FEININGER ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-32 is/are allowed.
- 6) ☒ Claim(s) 33-46 and 64-83 is/are rejected.
- 7) ☒ Claim(s) 47-63 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The indicated allowability of claims 45-83 is withdrawn in view of the following art rejection.

Drawings

The corrected or substitute drawings were received on 12/1/02. These drawings are accepted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 33 and 45-46 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,115,680 to Coffee.

Regarding claim 33, Coffee discloses a computer metering system which monitors the video content displayed on a computer device, a software meter logs the textual content of an application title bar and URL for an internet browser program, if the criteria is met, the user activity is logged, (column 11, lines 23-column 12, line 6).

Regarding claim 45, Coffee discloses a computer metering system which monitors the video content displayed on a computer device, a software meter logs the textual content of an application title bar and URL for an internet browser program, if the criteria is met, the user activity is logged, (column 11, lines 23-column 12, line 6).

Regarding claim 46, Coffee discloses recording minimization and crediting a user for viewing the content (column 7, lines 25-35, table 1 column 8- 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,115,680 to Coffee in view of U.S. Patent 6,005,561 to Hawkins.

Regarding claim 72, Coffee discloses a computer metering system which monitors the video content displayed on a computer device, a software meter logs the textual content of an application title bar and URL for an internet browser program, if the criteria is met, the user activity is logged, (column 11, lines 23-column 12, line 6). Coffee does not disclose metering tuning data and an ancillary ID code. Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches (column 23, lines 5-10), the EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID, the MPEG2 Stream contains both media objects as well as

video, ancillary data, program information description packs as transmitted as well as PRG data, is transmitted within the stream (Figure 7, column 13, line 29-column 14, line 48, column 19, lines 27-45, column 23, lines 14-18). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Coffee to determine tuning data from the video application and an ID code as taught by Hawkins, thereby allowing a crediting system to monitor whether or not a user is viewing video or viewing a computer application.

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 6,434,447 to Shteyn.

Regarding claims 34 and 35, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10). Hawkins does not disclose the use of device drivers for a video tuning card to determine the identification code for a program. Shteyn discloses a HAVi system in which a user utilizes a GUI to interact with a tuner and utilizes OLE Automation (column 9, line 1-59). Shteyn inherently uses a driver to communicate with the tuner, as software is required to receive and interpret commands received from a user from information presented by the GUI. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Hawkins to utilize the OLE enabled tuner of Shteyn to communicate

PID information for monitoring purposes as the OLE Automation interface can be controlled remotely.

Regarding claim 36, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10).

Claims 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 5,958,004 to Helland and U.S. Patent 6,434,447 to Shteyn.

Regarding claims 37, Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18). Hawkins does not disclose determining if there is a COM or API interface on a viewing device and determining channel data via the interface. The examiner takes official notice that a user-viewing device may run a Microsoft windows based OS. Helland discloses a run time environment which exchanges data within a program and uses both a COM interface and API interface to interact with various parts of a program and transfer data as well as look up data on functions being preformed (column 20, line 1-column 21, line 31). Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). Therefore it would have been obvious to

one skilled in the art at the time of invention to modify Hawkins to utilize the COM and API interfaces of Helland in order to take advantage of the COM and API functions which interact with user hardware as taught by Shteyn to initialize a call to the hardware in order to read the channel data associated with a video application.

Claims 38-44, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 5,958,004 to Helland and U.S. Patent 6,434,447 to Shteyn in further view of U.S. Patent 6,115,680 to Coffee.

Regarding claims 38, Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The combined system of Hawkins, Helland and Shteyn do not disclose determining channel data from window controls within a viewing application. Coffee discloses reading the text content of window title bars in order to meter a user's activities online (column 11, lines 22-48). Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Hawkins, Helland and Shteyn to read the title bars of viewer windows in order to determine channel data when API or COM interfaces are unavailable.

Regarding claims 39, 43, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Regarding claims 40-42, Coffee discloses that the meter program finds both an application window and a top window and logs the title bar information (column 11, lines

Art Unit: 2611

22-48). Coffee does not disclose reading a channel related child window to determine channel information. Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). The examiner takes official notice that TV Tuners, which are installed on a PC, may use a channel window to tune to a channel and the use of a call back function to find a specific window is well known in the art. Therefore, it would have been obvious to one skilled in the art to modify Coffee to read a channel window and use a callback function to find a specific window which is used to tune to a tuner to a selected program as taught by Shteyn thereby enabling the logging program of Coffee to store data on the programs a user is watching.

Regarding claim 44, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches (column 23, lines 5-10). Hawkins, Helland, Shteyn and Coffee do not disclose utilizing Java as an operating system. The examiner takes official notice that the use of Java as an embedded OS used in a STB to run an EPG and tuner functions is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Hawkins, Helland, Shteyn and Coffee to utilize Java as an OS and its related calls in order to retrieve channel data thereby maximizing memory available in a STB because of the low memory requirements of Java.

Claims 64-83 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,005,561 to Hawkins in view of U.S. Patent 5,958,004 to Helland and U.S. Patent 6,434,447 to Shteyn.

Regarding claim 64, Coffee discloses a computer metering application. Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18). Hawkins does not disclose determining if there is a COM or API interface on a viewing device and determining channel data via the interface. The examiner takes official notice that a user-viewing device may run a Microsoft windows based OS. Helland discloses a run time environment which exchanges data within a program and uses both a COM interface and API interface to interact with various parts of a program and transfer data as well as look up data on functions being preformed (column 20, line 1-column 21, line 31). Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Coffee/Hawkins to utilize the COM and API interfaces of Helland in order to take advantage of the COM and API functions which interact with user hardware as taught by Shteyn to initialize a call to the hardware in order to read the channel data associated with a video application.

Regarding claims 65, and 71, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Regarding claim 66, Coffee discloses reading the text content of window title bars in order to meter a user's activities online (column 11, lines 22-48).

Regarding claim 67, Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10).

Regarding claims 68-70, Coffee discloses that the meter program finds both an application window and a top window and logs the title bar information (column 11, lines 22-48). Coffee does not disclose reading a channel related child window to determine channel information. Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). The examiner takes official notice that TV Tuners, which are installed on a PC, may use a channel window to tune to a channel and the use of a call back function to find a specific window is well known in the art. Therefore, it would have been obvious to one skilled in the art to modify the combined system of Coffee/Hawkins/Helland to read a channel window and use a callback function to find a specific window which is used to tune to a tuner to a selected program as taught by Shteyn thereby enabling the logging program of Coffee to store data on the programs a user is watching.

Regarding claims 73-75, Coffee discloses a computer metering system which monitors the video content displayed on a computer device, a software meter logs the textual content of an application title bar and URL for an internet browser program, if the criteria is met, the user activity is logged, (column 11, lines 23-column 12, line 6). Hawkins discloses a viewer profiling/EPG system which monitors the programs a user watches and tunes to a program via PID information stored in the EPG (column 13,

Art Unit: 2611

lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18, column 23, lines 5-10). Coffee/Hawkins does not disclose the use of device drivers for a video tuning card to determine the identification code for a program. Shteyn discloses a HAVi system in which a user utilizes a GUI to interact with a tuner and utilizes OLE Automation (column 9, line 1-59). Shteyn inherently uses a driver to communicate with the tuner, as software is required to receive and interpret commands received from a user from information presented by the GUI. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Coffee/Hawkins to utilize the OLE enabled tuner of Shteyn to communicate PID information for monitoring purposes as the OLE Automation interface can be controlled remotely.

Regarding claims 76 and 77, Coffee discloses a computer metering system which monitors the video content displayed on a computer device, a software meter logs the textual content of an application title bar and URL for an internet browser program, if the criteria is met, the user activity is logged, (column 11, lines 23-column 12, line 6). Hawkins discloses a viewer profiling/EPG system that monitors the programs a user watches (column 23, lines 5-10). The EPG contains channel and program data which is used by a user to tune to a MPEG-2 stream PID (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Hawkins/Coffee do not disclose determining if there is a COM or API interface on a viewing device and determining channel data via the interface. The examiner takes official notice that a user-viewing device may run a Microsoft windows based OS.

Helland discloses a run time environment which exchanges data within a program and

Art Unit: 2611

uses both a COM interface and API interface to interact with various parts of a program and transfer data as well as look up data on functions being preformed (column 20, line 1-column 21, line 31). Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). Therefore it would have been obvious to one skilled in the art at the time of invention to modify Hawkins to utilize the COM and API interfaces of Helland in order to take advantage of the COM and API functions which interact with user hardware as taught by Shteyn to initialize a call to the hardware in order to read the channel data associated with a video application.

Regarding claim 78, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Regarding claims 79-81, and 83, Coffee discloses that the meter program finds both an application window and a top window and logs the title bar information (column 11, lines 22-48). Coffee does not disclose reading a channel related child window to determine channel information. Shteyn discloses utilizing OLE Automation or java for interacting with a tuner device (column 9, lines 20-59). The examiner takes official notice that TV Tuners, which are installed on a PC, may use a channel window to tune to a channel and the use of a call back function to find a specific window is well known in the art. Therefore, it would have been obvious to one skilled in the art to modify Coffee to read a channel window and use a callback function to find a specific window which is used to tune to a tuner to a selected program as taught by Shteyn thereby

Art Unit: 2611

enabling the logging program of Coffee to store data on the programs a user is watching.

Regarding claim 82, Hawkins discloses determining a program from data stored in a program guide (column 13, lines 43-55, column 14, lines 12-33, column 19, lines 27-45, column 23, lines 14-18).

Allowable Subject Matter

Claims 47-63 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 1, the prior art of record fails to disclose or suggest a method of crediting viewing with respect to a viewing window on the screen, where the window and screen have a size, a predetermined crediting rule is applied to the viewing window, viewing is credited with respect to the viewing window only when the window meets the predetermined crediting rule.

Regarding claim 21, the prior art of record fails to disclose or suggest a method of metering video displayed on a viewing device, where the viewing device is configurable to directly interface with one of a COM interface and an API known to the viewing device, the device determines whether the viewing device may interface directly with the COM or API interface, when it is a COM interface, the device determines the channel data from the COM interface, when it is an API interface, the device calls the API to determine channel data associated with a video application.

Claims 1-32 are allowed.

Art Unit: 2611


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HBL
February 24, 2003


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